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12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**
15

16 HERITAGE-NEVADA VIII, LLC,

17 Plaintiff,

18 v.

19 WORLD MARKET CENTER
20 VENTURE, LLC,

21 Defendant.
22

Case No. 3:08-mc-80245-VRW

(Case No. 2:08-cv-00130-PMP-RJJ
pending in the United States District Court
for the District of Nevada)

**SECOND JOINT STIPULATION
REQUESTING A 30-DAY
CONTINUANCE OF WORLD
MARKET CENTER VENTURE
LLC'S MOTION TO QUASH
SUBPOENA AND PROPOSED
ORDER THEREON**

23
24 Plaintiff-opposer Heritage-Nevada VIII, LLC ("Heritage"), defendant-
25 movant World Market Center Venture, LLC ("WMC"), and joining party Cost Plus
26 Management Services, Inc. ("Cost Plus") hereby submit the following second joint
27 stipulation and proposed order for a 30-day continuance of the March 19, 2009
28

1 hearing date and all related opposition and reply deadlines in connection with
2 WMC's pending motion to quash a subpoena that Heritage previously served upon
3 Cost Plus (Heritage, WMC, and Cost Plus are collectively the "parties").

4 This Court previously continued the hearing date for WMC's pending quash
5 motion from January 29, 2009 to March 19, 2009, based upon the parties' filing of
6 a January 8, 2009 joint stipulation requesting such relief. That prior stipulation
7 requested a continuance because the information and materials that are the subject
8 of Heritage's subpoena and WMC's motion to quash overlap at least in part with
9 documents that are the subject of Heritage's motion to compel currently pending in
10 the United States District Court for the District of Nevada, the court responsible for
11 and most familiar with the underlying litigation and its background facts. As
12 discussed in the prior stipulation, WMC cited this overlap in its moving papers.
13 *See, e.g.*, WMC supporting memorandum of law at 4, 7 (arguing that the
14 documents that Heritage seeks in its subpoena "are presently the subject of [a]
15 dispute that is being heard on an expedited basis by the Nevada District Court").

16 As referenced in the parties' prior stipulation, Heritage's motion to compel
17 in the District of Nevada has been fully briefed and was argued on January 15,
18 2009, and the parties await the court's decision on that motion to compel.

19 The parties remain in agreement that the resolution of Heritage's motion to
20 compel could be helpful and potentially instructive to this Court, and that a 30-day
21 continuance of the March 19, 2009 hearing date and all related filing deadlines
22 remains desirable and warranted in the interests of judicial economy.

23 The parties stipulate that the deadline for all opposition and reply filings will
24 be based upon the newly-selected hearing date, in accordance with the Northern
25 District of California local rules.

26 The parties reserve all rights, remedies, objections, and arguments in
27 connection with this motion to quash, including (1) Heritage's argument that

WMC's motion was procedurally defective and not filed in accordance with the Northern District of California local rules; (2) WMC's and Cost Plus' argument that Heritage's subpoena was procedurally defective and not served in accordance with these local rules; and (3) Cost Plus' request that if WMC's motion to quash is denied and Cost Plus is ordered to comply with Heritage's subpoena, Heritage should be ordered to pay for Cost Plus' costs and fees.

Dated: February 23, 2009

IT IS SO STIPULATED.

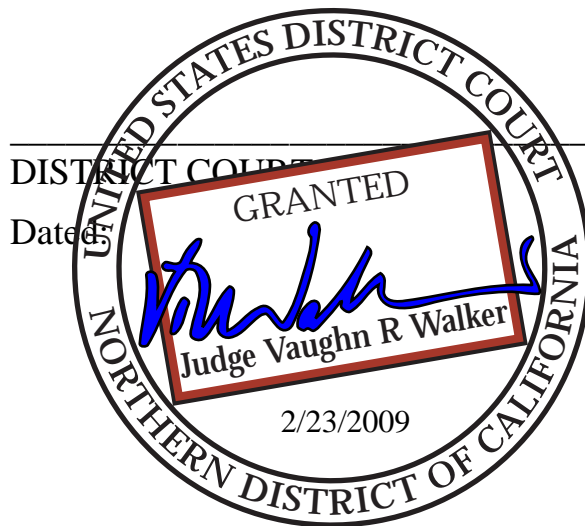
<u>/s/ Michael A. Firestein</u> Michael A. Firestein (SBN 110622) mfirestein@proskauer.com Joshua J. Pollack (SBN 215922) jpollack@proskauer.com PROSKAUER ROSE LLP 2049 Century Park East 32nd Floor Los Angeles, CA 90067-3206 Tel: 310.557.2900 Fax: 310.557.2193 Brendan J. O'Rourke* Adam D. Siegartel* PROSKAUER ROSE LLP 1585 Broadway New York, NY 10036 Tel: 212.969.3000 Fax: 212.969.2900 *Admitted <i>pro hac vice</i> in District of Nevada <i>Attorneys for plaintiff-opposer</i> <i>Heritage-Nevada VIII, LLC</i>	<u>/s/Rob L. Phillips</u> Rob L. Phillips (SBN 175354) phillipsr@gtlaw.com Mark G. Tratos** Ronald D. Green** F. Christopher Austin** GREENBERG TRAURIG LLP 3773 Howard Hughes Parkway Suite 500 North Las Vegas, NV 89101 Tel: 702.792.3773 Fax: 702.792.9002 **Admitted in District of Nevada <i>Attorneys for defendant-movant</i> <i>World Market Center</i> <i>Venture, LLC</i>	<u>/s/Marcy J. Bergman</u> Marcy J. Bergman (SBN 75826) mbergman@cwclaw.com Leila C. Knox (SBN 245999) lknox@cwclaw.com COOPER, WHITE & COOPER LLP 201 California Street, 17th Floor San Francisco, CA 94111 Tel: 415.433.1900 Fax: 415.433.5530 <i>Attorneys for joining party</i> <i>Cost Plus Management Services, Inc.</i>
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I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/S/) within this efiled document.

/s/ Joshua J. Pollack
Joshua J. Pollack

~~PROPOSED~~ ORDER

Having considered the foregoing second joint stipulation requesting a 30-day continuance of World Market Center Venture LLC's motion to quash subpoena, it is **HEREBY ORDERED** that the hearing date for this motion is continued to April 23, 2009, and that all opposition and reply filings will be based upon this new hearing date in accordance with the Northern District of California local rules.



CERTIFICATE OF SERVICE

I declare that: I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within cause; my business address is Proskauer Rose LLP, 2049 Century Park East, Suite 3200, Los Angeles, California 90067-3206. I am admitted to practice in the United States District Court for the Northern District of California.

On February 23, 2009, I caused a true and correct copy of the Second Joint Stipulation Requesting A 30-Day Continuance Of World Market Center Venture LLC's Motion To Quash Subpoena And Proposed Order Thereon, to be served by first class mail and electronic mail upon counsel for World Market Center Venture, LLC and Cost Plus Management Services, Inc. at the following addresses:

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Executed on February 23, 2009 at Los Angeles, California.

/s/ Joshua J. Pollack
Joshua J. Pollack